

November 14, 1983

Final Rule to Approve Nebraska New Source Review (NSR) and Prevention of Significant Deterioration (PSD) Regulations

Director, Air and Waste Management Division

Morris Kay
Regional Administrator

Attached is a final rule to be published in the Federal Register which approves the Nebraska regulations to comply with the federal requirements for new source review (NSR) in nonattainment areas and for the prevention of significant deterioration (PSD) in attainment areas. These rules were proposed for approval on August 31, 1983.

BACKGROUND

On August 9, 1982, EPA received revisions to the Nebraska State Implementation Plan (SIP) to satisfy the requirements of Part D of the Clean Air Act, as amended. In the final rulemaking to approve portions of the submission (published March 28, 1983), EPA took no action on the state's new source review regulations because the regulations were in the process of being revised by the state to more closely comply with federal requirements. The staff of the Air Branch worked closely with the Nebraska Air Pollution Control Division to correct the deficiencies of the regulations. On March 25, 1983, the Nebraska Environmental Control Council heard and adopted revisions necessary to meet federal requirements. On that date, the Council also heard and adopted two new regulations to comply with the prevention of significant deterioration and stack height requirements of the Act. The revisions to the new source review regulations and the two new regulations were submitted to EPA by the Governor of Nebraska on May 23, 1983, and received in the regional office on June 7, 1983.

The previous lack of an approved SIP which included new source review regulations for nonattainment areas in Nebraska led to the imposition of the construction moratorium on July 1, 1979, required by Section 110(a)(2)(I) of the Act, on all primary nonattainment areas in the state. This action will remove the construction moratorium in the primary nonattainment areas for which a Part D SIP revision has been approved by EPA.

These regulations were proposed for approval by EPA on August 31, 1983, at 48 FR 39472. No comments were received as a result of the proposed approval. This document takes final action to approve the NSR and PSD regulations.

The stack height regulation was proposed for approval based on a commitment from the state to clarify the regulation relating to the public notice and hearing requirements. The state has not had the opportunity to fulfill

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11/15/83	11/16/83	11/16/83	11/ /83	11/ /83
<i>Whitmore</i> 11/15/83				<i>AB</i>

this commitment to date, although it is our understanding that they fully intend to do so. Additionally, since the proposal was published, a decision has been rendered by the U.S. Court of Appeals for the District of Columbia which orders EPA to reconsider portions of the stack height regulations for stationary sources under Section 123 of the Clean Air Act. Consequently, we are taking no final action on the stack height regulation at this time.

I have determined that there are no apparent recusal issues involved in this action. A completed recusal form is attached for William W. Rice's signature.

RECOMMENDATION

I recommend that you sign the attached Federal Register document.

David A. Wagoner, Director
Air and Waste Management Division

Attachments

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